IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 3974 OF 2005
IN
CRIMINAL APPEAL NO. 593 OF 2005

Ashwini @ Soni Mukundlal Gill & Ors ...Applicants

Versus

The State of Maharashtra ...Respondent

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Mr. Zia Ul Mustafa, Advocate for Applicant

Mr. B.H. Mehta, A.P.P. for State.

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CORAM: SMT. V.K. TAHILRAMANI, J.

DATED: 3RD OCTOBER, 2005

P. C.:-

1. Heard the learned advocate for the applicants and the learned A.P.P. for the State.

2. The applicants are seeking bail. The applicants have been convicted under Section 307 of I.P.C. and sentenced to 10 years imprisonment for causing injuries to P.W.1 Saibaba Ajanneru Kondapuram.

3. As far as the applicant No.1 Ashwini @ Soni is concerned, P.W.1 has specifically stated that this accused refused to pay the laundry bill and the incident in question took place as Saibaba asked Soni for the money relating to unpaid laundry bills. Soni

stated that he would not pay the amount and he wanted to get some more clothes ironed. On account of this dispute arose and Soni i.e. applicant No.1 gave threat to Saibaba stating that he would see Saibaba later on. On the same day in the afternoon, Soni and the other applicants and one other entered into the shop of Saibaba. At that time, Kailash (applicant No.3) asked Saibaba whether he had demanded the laundry bill. He hit Saibaba on the head. The applicant No.3 Kailash assaulted Saibaba on the head with knife. Applicant No.1 Soni gave a stab blow with knife over the stomach of Saibaba. The applicant No.2 Sujit assaulted Saibaba on the left side of the chest with knife. This witness has stated the specific role played by the applicants in the said incident.

4. P.W.7 Dr. Surve examined Saibaba, he has stated that there were five injuries on the person of Saibaba. One injury was on the lateral part of the chest of Saibaba and the second injury was over the stomach. He has also mentioned about the injury on the head. He has specifically stated that all these injuries are possible by cutting edge weapon and if the patient did not receive medical treatment immediately, he would have died.

5. As far as the applicant No.2 Sujit Rathod is

concerned, he is involved in three other cases i.e. C.R. No.78/99 and 219/2002 of Malvani police station. Both these cases are under Section 324 r.w. 34 of I.P.C. and the third case is C.R. No.5/2003 of D.N. Nagar police station. The said case is under Section 37(1) (a) of the Bombay Police Act.

6. The applicant No.3 Kailash Joshi is also involved in two other cases i.e. C.R. No. 8/2003 of Malvani police station. The said case is under Section 325 of I.P.C. and L.A.C. No.1551/2003 of Malad police station. The said case is under Section 37(1)(a) of Bombay Police Station.

7. Looking to the antecedents of these two applicants and the other facts and circumstances of this case, I do not think that this is a fit case to grant bail to them even though they may have been on bail earlier. As far as the applicant No.1 is concerned, looking to the role played by him i.e. stabbing by knife on the stomach of Saibaba, I am not inclined to grant bail to this applicant also.

8. Application is rejected.

9. Hearing of appeal is expedited.

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